IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH AT HYDERABAD

HON'BLE Mr. JUSTICE R. SUBHASH REDDY

Writ Petition No.15545 of 2002

WEDNESDAY, THE ELEVENTH DAY OF JULY TWO THOUSAND AND SEVEN

Between:

The Chairman / Person in-charge Committee,
Sri Kommeneni Mallikarjuna Rao, S/o. Venkataratnam,
@ Anjaneyulu, Hindu, Male, aged about 45 years,
R/o. Purushothapatnam, Gannavaram Mandal,
Krishna District.

… Petitioner

And

The Deputy Registrar of Cooperative Societies,
Nuzvid, Krishna District, and others.

… Respondents

Order:

Petitioner, Chairman / Person In-charge of the Committee of Purushothapatnam Lift Irrigation Cooperative Society Ltd., (hereinafter referred to as 'the Society') has filed this writ petition seeking Mandamus to declare the order dated 16-08-2002, passed by the first respondent superseding the said committee and appointing Mandal Parishad Development Officer, Gannavaram as part-time person

In-charge as arbitrary and illegal.

2. In the affidavit filed in support of the writ petition, it is stated that the Society has been formed to provide water to the farmers for cultivation by way of lift irrigation. The case of the petitioner is that the said committee headed by him, was appointed by the first respondent on 02-07-2001 initially for a period of six months and the term of the committee was being extended from time to time, which was extended, lastly, from 02-07-2002 to 01-01-2003. The grievance of the petitioner is that even before the expiry of the said term, the impugned order has been passed by the first respondent in exercise of powers under Section 32(7) (a) of the Andhra Pradesh Cooperative Societies Act, 1964 (for short 'the Act') stating that the persons committee appointed has not been functioning properly to safeguard the interests of the members, and the Mandal Parishad Development Officer, Gannavaram is appointed as part-time person In-charge of the society for a period of six months.

3. The impugned order is mainly questioned on the ground that the same has been passed without any prior notice before the expiry of the term of the present Committee.

4. This court admitted the writ petition on 23-08-2002 and granted interim stay by order dated 11-10-2002.

5. Respondents have filed counter affidavit stating that the non-official committee, which was appointed, has resorted to certain financial irregularities and in view of the representation of some members; the impugned order has been passed.

6. However, it is not in dispute that no notice was issued to the committee appointed earlier before passing the impugned order. Further, it is stated that the Mandal Parishad Development Officer,

Gannavaram who was appointed as official person in-charge pursuant to the order dated 16-08-2002 had taken charge on 31-08-2002.

7. Learned counsel for the petitioner submits that in view of the interim stay granted by this court by order dated 11-10-2002 the non-official committee is functioning.

8. The non-official committee, of which the petitioner is the Chairman, was appointed by order dated 02-07-2001 and it was extended from 24-06-2002 to 01-01-2003. It is not in dispute that no elections were held to the committee. However, even before the expiry of the term of the committee, the impugned order was passed alleging certain financial irregularities against some members of the committee. When the non-official committee has been appointed, and thereafter it is superseded by another committee on some allegations, respondents ought to have issued prior notice before passing the impugned order. It is also stated that no elections have been conducted from the last five years. Failure to conduct elections to a cooperative society for such a long time runs contrary to the very intendment and object of the legislation itself.

9. As much as it is stated that pursuant to the interim stay granted by this court on 11-10-2002, the non-official committee headed by the petitioner is functioning and in the counter affidavit it is stated that the Mandal Parishad Development Officer, Gannavaram has taken charge on 31-08-2002, I deem it appropriate to dispose of the writ petition with the following directions:

i. The first respondent, Deputy Registrar of Cooperative Societies, Nuzvid is directed to conduct elections to the Managing Committee of the Society as expeditiously as

possible, and, preferably, within a period of four months from the date of receipt of this order.

ii. The non-official committee headed by the petitioner or the Mandal Parishad Development Officer, whoever is in-charge of the society as on today, shall continue to discharge functions till elections are conducted.

10. The writ petition is accordingly disposed of. No order as to costs.

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JUSTICE R. SUBHASH REDDY.

July 11, 2007
MRR